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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,803	08/04/2003	John H. Wurster	01-VE22.40C1	7425

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VERIZON LEGAL DEPARTMENT  
PATENT MANAGEMENT GROUP  
1320 N. COURTHOUSE ROAD  
9TH FLOOR  
ARLINGTON, VA 22201-2525

EXAMINER
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AL AUBAIDI, RASHA S

ART UNIT	PAPER NUMBER
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2614

NOTIFICATION DATE	DELIVERY MODE
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04/06/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/632,803	<b>Applicant(s)</b> WURSTER ET AL.	
	<b>Examiner</b> RASHA S. AL AUBAIDI	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01/08/2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,5-10,12,13,15,16,18,19,22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 2-4,20 and 24-26 is/are allowed.
- 6) ☒ Claim(s) 1,5-10,12,13,15,16,18,19,22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This in response to amendment filed 01/08/2009. No claims have been added. No claims have been canceled. Claims 1, 10, 18 and 20 have been amended. Claims 1, 5-10, 12-13, 15-16, 18-19 and 21-23 are still pending in this application.

### ***Allowable Subject Matter***

2. Claims 2-4 are allowed.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 5-9 and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim1 recites

“recognizing a busy condition of a subscriber line;

initiating a first call to said subscriber line in response to recognizing the busy condition ...etc”.

First, it is unclear **what** is exactly or **who** is “recognizing a busy condition” and why?

Second, it is unclear **why** a first call is initiated to said subscriber line in response to recognizing the busy condition”.

It is note that the claim’s language implies that the" recognizing a busy condition of a subscriber line” is the result of a calling party trying to reach a called party who's line is busy. Also, it is not clear under what condition and to **serve what purpose** the “first call is initiated to said subscriber line in response to recognizing the busy condition”. It seems that the claimed language can be interpreted as every time the subscriber line is busy a call would be initiated to that condition! Clarification is required.

Dependent claims 5-9 and 21-23 are rejected for the same reasons addressed in claim 1.

Claim 1 recites the limitation "storing an indicator of said condition". There is insufficient antecedent basis for this limitation in the claim. The claimed language should recite”storing an indicator of said **busy** condition". Correction is required.

Dependent claims 5-9 and 21-23 are rejected for the same reasons addressed in claim 1.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-6 and 10 are rejected under 35 U.S.C. 102 (b) as being anticipated by Bajzath et al. (US PAT # 6,144,644).

Bajzath teaches in a system and method implementing a call waiting a user (end user 205, fig. 2) who is utilizing the internet (120) can register for call waiting feature (see col. 5, lines 8-9) at the call waiting server (215). The user can register for that feature by dialing the internet service provider (ISP's 115). Then the user can enters and stores all the information required (see col. 4, lines 39-51). CPR attempts to load the call waiting flag corresponding to the user's record. Once the call waiting is loaded successful the CPR sends a termination notification messages, indicating that the user who is active on the internet has the call waiting feature activated (col. 4, lines 52 through col. 5, lines 1-13). Bajzath also teaches that when the call waiting is not activated the calling party will encounter a busy signal (see col. 6, lines 49-51). Also, Bajzath teaches PSTN 110 which includes the service switching point (SSP) 140 and service control point (SCP) 145 (see Figs. 1-2). Bajzath teaches first special calling party number (see col. 6, lines 12-17). The claimed feature of "storing an indicator of said condition in response to receiving...etc" is already taught by Bajzath (see col. 6, lines 18-32).

Claim10 is rejected for the same reasons as discussed above with respect to claim 1. Note that the SCP reads on the claimed "database" as recited in claim 10

For claim 5, this reads on a calling party initiating a call to a user who's internet call waiting is not activated or the user did not registered to the that serve (i.e., internet call waiting). Once the call is received the calling party encounters a busy signal (see col. 6, lines 33-51).

Regarding claim 6, see col. 4, lines 64-67.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bajzath et al. (US PAT # 6,144,644).

Bajzath features are already addressed in the above rejection. Bajzath does not specifically teach “said step of initiating said first call including a telephone number of said subscriber line”.

However, Bajzath teaches that CPR initiates a termination notification messages to the user's line, indicating that the user who is now active on the internet has the call waiting feature activated (col. 4, lines 52 through col. 5, lines 1-13). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the server ***initiating call*** as recited in the claim's language ***instead of initiating a message*** in order to indicate the activating of call waiting feature as taught by Bajzath. Initiating call verses sending or initiating a message in this scenario both can serve the same purpose which is informing and notifying the user of the activating of a call waiting.

***Response to Arguments***

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dolan (Pub No.; 2005/0141490) teaches in [0005]a system of the present invention operates a central server which receives incoming telephone calls when a user is connected to the Internet. The company's central server delivers the calling and called number information to the user's desktop computer for all calls. The user may elect to pick up that call in which case a direct Internet connection is made between the users desktop computer and the telephone system. If the user does not answer the call or the user is not logged on line to the Internet, the company's central server takes the message or optionally forwards the call to a traditional phone line or a cell phone. The information about the call is then spoken to the customer who can again make a decision whether to take that call.

Abraham (Pub No.: 2002/0150227) teaches in claim 4 a method in accordance with claim 1 wherein said notifying step includes (a) said communication assistance service entity instructing a service package application program running on said voice



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network resource to issue a call alert request message containing said call request information, (b) a data network server resource being advised of said call alert request message, and (c) said data network server resource sending a call alert message to a data network client resource associated with said on-line user.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S. AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rasha S AL-Aubaidi/  
Primary Examiner, Art Unit 2614